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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|-------------|----------------------|---------------------|------------------|
| 09/731,970 | 12/08/2000 | Genevieve Loussouarn | 2365-24 | 1749 |
| 23117 | 7590 | 03/09/2005 | EXAMINER | |
| NIXON & VANDERHYE, PC 1100 N GLEBE ROAD 8TH FLOOR ARLINGTON, VA 22201-4714 | | | BHATNAGAR, ANAND P | |
| | | | ART UNIT | PAPER NUMBER |
| | | | 2623 | |

DATE MAILED: 03/09/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action
Before the Filing of an Appeal Brief**

Application No.

09/731,970

Applicant(s)

LOUSSOUARN ET AL.

Examiner

Anand Bhatnagar

Art Unit

2623

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 08 February 2005 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 5 months from the mailing date of the final rejection.
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The reply was filed after the date of filing a Notice of Appeal, but prior to the date of filing an appeal brief. The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____.
Claim(s) objected to: _____.
Claim(s) rejected: _____.
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No(s). _____.
13. ☐ Other: _____.

Continuation of 11. does NOT place the application in condition for allowance because: Applicant states in his response, filed on 02/08/05, that the Rule 131 Declaration filed on 06/22/05 was to demonstrate "reduction to practice" applicant's instant invention prior to the effective date of the prior art of Kreindel et al. (U.S. patent 6,162,212). As the examiner stated in the Final Rejection that the Rule 131 Declaration does not state if "reduction to practice" nor "conception" is being demonstrated. To make this declaration proper one of these two needs to be in the declaration. Since neither of these is in the declaration then this Rule 131 declaration submitted is considered to be defective.

Applicant argues in his response, on page 3 lines 9-11, that the prior art of Kreindel does not teach or suggest a system including a means for observation of hair region of the dermis and that the secondary reference does not cure this deficiency. Examiner disagrees. As stated in the Non-Final and Final rejection the analysis of hair in different areas of a person's skin is being performed by Kreindel et al. (col. 2 lines 35-40). This skin is read as the dermis as stated in both the nonfinal and final rejections, since the skin is composed of two parts, the outer part is the epidermis and the inner part is the dermis (See The American Heritage Dictionary 4th edition or any medical Histology textbooks). Nowhere does it say in the claim language that only the dermis is being analyzed therefore examiner reads skin as the dermis. Further, the secondary reference, of Amornsiripanitch (U.S. patent 6,389,150), also teaches this since the hair on the scalp is being analyzed. The "s" in scalp represents skin (see any Histology textbook). See previous argument about skin. Applicant further argues, middle of page 5, that Kreindel et al. does not teach "to observe the hair growth cycles on a patient. Examiner disagrees. Kreindel discloses to simulate the hair growth cycle on a person by graphic illustration or data presentation (col. 2 lines 40-45). Further on page 9 of the response argues that the prior art of Kreindel et al. does not teach to study the results of age eating habits, and/or drugs. This is not in any of the claim limitations therefore this argument is moot.



SAMIR AHMED
PRIMARY EXAMINER